## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:19-HC-2046-D

ROBIN APPLEWHITE,	)	
Petitioner,	)	
<b>v.</b>	)	ORDER
STATE OF NORTH CAROLINA,	)	
Respondent.	)	
	•)	

On May 22, 2019, Magistrate Judge Numbers issued a Memorandum and Recommendation ("M&R") [D.E. 15] and recommended that the court deny petitioner Robin Applewhite's ("Applewhite") motions to proceed in forma pauperis [D.E. 2, 5]. Applewhite did not object to the M&R or pay the filing fee.

"The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objection is made." <u>Diamond v. Colonial Life & Accident Ins. Co.</u>, 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); <u>see</u> 28 U.S.C. § 636(b). Absent a timely objection, "a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." <u>Diamond</u>, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R and the record. The court is satisfied that there is no clear error on the face of the record. Accordingly, the court adopts the conclusions in the M&R [D.E. 15].

On June 5, 2019, the court sent the M&R to Applewhite at the Cumberland County

Detention Center, but the mail was returned as undeliverable with a notation that Applewhite is "no longer here" [D.E. 16]. Applewhite did not provide the court with an updated address and thereby violated Local Civil Rule 83.3.

In sum, the court ADOPTS the conclusions in the M&R [D.E. 15], DENIES Applewhite's motions to proceed in forma pauperis [D.E. 2, 5], and DISMISSES the action without prejudice for Applewhite's failure to advise the court of his new address and for failure to prosecute. The clerk shall close the case.

SO ORDERED. This <u>27</u> day of March 2020.

JAMES C. DEVER III

United States District Judge